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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,954	06/24/2003	Haru Ando	HIRA.0114	8839

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EXAMINER

LIM, KRISNA

ART UNIT	PAPER NUMBER
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2153

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/601,954

Applicant(s)

ANDO ET AL.

Examiner

Krisna Lim

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

1. Claims 1-16 are presented for examination.
2. The title of the invention is neither descriptive nor precise. A new title is required which should include, using twenty words or fewer, claimed features that differentiate the invention from the Prior Art. The title should reflect the gist of or the improvement of the present invention.
3. Claim 14 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not understood how can a program having the following means: a controller, display, storage, and network interface because a program is merely an intangible media and an abstract idea. How can an abstract idea and the intangible media having those a controller, display, storage, and network interface. Moreover, this program is not a computer executable.

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title. Claims 1-16 are presented for examination.

5. Claim 14 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as being an intangible media (e.g., a program, a procedure, etc.) and an abstract idea. A program and a procedure are not tangibly embodied in a manner so as to be executable.

- 6.. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tetsushi et al. [Patent Abstract of Japan, Publication No. 2002-073480] in view of Masanori et al. [Patent Abstract of Japan, Publication No. 2000-207304]. Applicant submitted these two references.

8. Tetsushi et al. disclose (e.g., see Figs. 1-23) the invention substantially as claimed. Taking claims 1-16 as exemplary claims, Tetsushi et al. disclose a preparing apparatus and a delivery apparatus for a comic mail capable of transmitting and receiving E-mail in which texts and images are mixed without consideration of a terminal capability of the receiving person by transmitting person, with synthesizing texts into image information to express texts for an information terminal having various display capabilities, and with performing an expansion and reduction processing according to the terminal (e.g., mobile terminal, emphasis added). Moreover, Tetsushi et al further disclose the feature of extracting the given identifier, determining a character image, synthesizing character images into texts and enlarging or reducing the synthesizing image based on information of a receiving terminal. While Tetsushi et al disclose the invention as mention above, Tetsushi does not expressly mention that his synthesizing image represents or expresses the feeling and intention of a sender. Mananori, on the other hand, clearly discloses such feature. Interactive communication device that can visually express the feeling and the intention of a sender would have been a desirable in the art at the time the invention was made. Thus, it would have been obvious to one of ordinary skill in the art to recognize the advantage of the Mananori's teaching and incorporate the Mananori's teaching into Tetsushi's image so that email or comic mail with visual expression of the feeling and intention of the sender can be achieved.

9. A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) days from the mail date of this letter. Failure to respond within the

Art Unit: 2153

period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisna Lim whose telephone number is 571-272-3956. The examiner can normally be reached on Monday to Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess, can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KI

March 18, 2007



KRISNA LIM
PRIMARY EXAMINER